

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

SALT LAKE SHUTTLE, LLC)	
)	Order No.: UT-2013-5000-IMH
USDOT 1947293)	
)	
and)	Service
)	Date: _____
JESUS LEAL MARTINEZ, Individually)	
)	Time: _____
)	

**IMMINENT HAZARD
OPERATIONS OUT-OF-SERVICE ORDER**

This is an Imminent Hazard Operations Out-of-Service Order ("ORDER") issued by the Secretary of the United States Department of Transportation (the "Secretary") pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1), (2), and (5), and 49 C.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Lakewood, Colorado. This ORDER applies to SALT LAKE SHUTTLE, LLC, USDOT number 1947293, and JESUS LEAL MARTINEZ, an individual (referred to collectively herein as "you", "your," and/or "SALT LAKE SHUTTLE") and to all vehicles owned or operated by SALT LAKE SHUTTLE, including without limitation the commercial motor vehicles identified herein. JESUS LEAL MARTINEZ is the President of SALT LAKE SHUTTLE, LLC. JESUS LEAL MARTINEZ is responsible for daily operations of the carrier and has knowledge of safety violations discovered in the past.

The Secretary and the FMCSA find that your continued operations and the operations of

your commercial motor vehicles in the United States constitute an **imminent hazard**. This finding means that, based upon your present state of unacceptable safety compliance, the operation of any commercial motor vehicle by SALT LAKE SHUTTLE poses an **imminent hazard** to public safety.

Effective immediately, you must cease operating any commercial motor vehicles, specifically including the commercial motor vehicles listed in Appendix A to this Order.

“Operate” or “Operating” includes without limitation all interstate and intrastate transportation by drivers from all dispatching locations or terminals. SALT LAKE SHUTTLE’s commercial motor vehicles, specifically including the commercial motor vehicles listed in Appendix A to this Order, may not be operated in interstate or intrastate commerce by any other motor carrier or any driver; such commercial motor vehicles may not be operated – even without passengers. Any movement of SALT LAKE SHUTTLE’s commercial motor vehicles, specifically including the commercial motor vehicles identified in Appendix A of this Order, to any storage or repair or other location for the purposes of repair, sale, storage, or final destination must be accomplished only by towing, such that the commercial motor vehicle itself is not driven or operated; SALT LAKE SHUTTLE’s commercial motor vehicles may be moved only upon the written approval of the Field Administrator for FMCSA’s Western Service Center.

Your commercial motor vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination, which is defined as the next scheduled stop for vehicles already in motion where the passengers can be safely accommodated. (See 49 C.F.R. § 386.72(b)(4) and (5)). You may not load or transport any additional passengers, nor may you operate any commercial motor vehicle in interstate or intrastate commerce while this Order is in effect.

Within eight (8) hours of the service of this Order, you must submit to the Field Administrator in writing by facsimile the location of each of the commercial motor vehicles operated by SALT LAKE SHUTTLE, including those vehicles identified in

Appendix A of this Order. Your submission must be sent to:

Mr. Terry D. Wolf
Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Ste. B-300
Lakewood, CO 80215

I. JURISDICTION

SALT LAKE SHUTTLE is a passenger motor carrier engaged in interstate and intrastate commerce in the United States using commercial motor vehicles and employing drivers and is therefore subject to the Federal Motor Carrier Safety Regulations ("FMCSRs"), 49 C.F.R. Parts 350-399, as well as the Orders of the USDOT and FMCSA. (*See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136 and 31144.)

SALT LAKE SHUTTLE is required to comply, and to ensure its drivers comply, with the FMCSRs and Orders of the USDOT and FMCSA. 49 C.F.R. § 390.11. JESUS LEAL MARTINEZ is the sole owner and principle of SALT LAKE SHUTTLE, LLC. This ORDER has the force and effect of any other Order issued by the FMCSA and is binding upon SALT LAKE SHUTTLE, as well as any and all of its officers, members, directors, successors, assigns and closely affiliated companies.

II. BASIS FOR ORDER

The basis for determining that SALT LAKE SHUTTLE's motor carrier operations pose an imminent hazard to the public is that SALT LAKE SHUTTLE intentionally falsifies driver records of duty status (RODS), violates driver hours of service regulations and fails to ensure

that its commercial motor vehicles are properly inspected, repaired and maintained.

SALT LAKE SHUTTLE falsifies its drivers' RODS by completely rewriting driver RODS after its drivers complete interstate trips. In rewriting its driver RODS, SALT LAKE SHUTTLE indicates second drivers when no second driver actually was present during the transportation (commonly known as a "ghost driver"). Furthermore, you direct and/or allow drivers to routinely drive and/or be on-duty far beyond the maximum time allowed in 49 C.F.R. Part 395. Finally, SALT LAKE SHUTTLE fails to repair or cause to be repaired in a competent manner its commercial motor vehicles. You also fail to ensure that the commercial motor vehicles you operate meet minimum safety standards. SALT LAKE SHUTTLE operates commercial motor vehicles with significant safety defects resulting in failed safety inspections.

Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to SALT LAKE SHUTTLE drivers, passengers and the motoring public.

III. BACKGROUND

On or about April 8, 2013, FMCSA initiated a compliance review of the motor carrier operations of SALT LAKE SHUTTLE. During the compliance review, FMCSA and its designated inspectors conducted inspections on all three of the commercial motor vehicles that you operate and control. The three vehicles are identified on Appendix A hereto. Serious noncompliance and safety defects were discovered during each vehicle inspection. Twenty-five violations of federal safety requirements were found on the three vehicles inspected. Eight of the twenty-five violations discovered were out-of-service violations, which required each vehicle to be placed out of service. All three commercial motor vehicles were ordered out of service. All three vehicles had emergency exits that were defective or inoperable. SALT

LAKE SHUTTLE placed plastic grocery bags on one emergency exit as well as glue and/or tape on another, rendering the emergency exits inoperable. On or about August 23, 2012, during a previous compliance review, you were cited for failing to inspect emergency exits (49 C.F.R. § 396.3(a)(2)) and directed to correct the violation. Furthermore, 12 violations were discovered on your motorcoach (Bus #5), including defective brakes, leaking wheel hubs and excessive leaking from power steering pumps.

Furthermore, SALT LAKE SHUTTLE routinely dispatches drivers on interstate trips from Kearns, Utah to Las Vegas, Nevada and back to Kearns without allowing its drivers adequate rest in Las Vegas or elsewhere. SALT LAKE SHUTTLE has been cited for hours of service violations in its last two compliance reviews (August 23, 2012 and July 6, 2010). Furthermore, in an attempt to conceal hour of service violations, you repeatedly falsified driver RODS in an attempt to show a second or relief driver aboard the vehicle when a second driver did not actually exist (i.e., use of a "ghost driver"). For example, on multiple occasions since November 2012, you dispatched driver [Driver A] from Kearns, Utah, to Las Vegas, Nevada and back to Kearns with passengers. Driver [Driver A] was the sole driver on these trips. But driver RODS were later rewritten to indicate a second driver rode with driver [Driver A] to drive one of the legs of the trip. SALT LAKE SHUTTLE officials admitted to falsifying driver RODS in this manner at the direction of JESUS LEAL MARTINEZ. This is despite the fact that SALT LAKE SHUTTLE was cited for falsifying RODS in 2010 and 2012 and directed to discontinue falsifying RODS.

To date, the ongoing compliance review and investigation has discovered a deterioration in your safety management controls and widespread safety violations that demonstrate a continuing and flagrant general disregard for compliance with the FMCSRs, particularly with

hours of service regulations and vehicle maintenance, and a management philosophy indifferent to motor carrier safety. Such actions establish an imminently hazardous and potentially deadly situation for the drivers, passengers, and the motoring public.

IV. REMEDIAL ACTION

To eliminate this imminent hazard and before SALT LAKE SHUTTLE will be permitted to resume operations placed out of service by this ORDER, you must take specific steps to ensure and demonstrate compliance with the FMCSRs.

1. SALT LAKE SHUTTLE must drastically change its company and management philosophy regarding driver oversight and vehicle maintenance.
2. SALT LAKE SHUTTLE must establish sufficient safety management controls to abate the hazards associated with its lack of safety management controls over its drivers' hours of service. It must ensure its drivers accurately and fully complete their daily records of duty status and submit them to the carrier within 13 days of completion. You must begin maintaining accurate drivers' records of duty status and all supporting documents for the required period of 6 months. Further, you must ensure that all records of duty status are accurate by using all means available and by comparing each with all supporting documentation.
3. SALT LAKE SHUTTLE must take aggressive and progressive steps to control drivers' hours of service.
4. SALT LAKE SHUTTLE must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with those regulations.

5. SALT LAKE SHUTTLE must implement a dispatch system that ensures that no driver will be dispatched on any trip unless the driver has the necessary available hours of service to complete the trip in accordance with 49 C.F.R. Part 395.

6. SALT LAKE SHUTTLE must submit to the Field Administrator a plan detailing how you will (i) train all drivers used on compliance with the HOS regulations, (ii) monitor the compliance of all drivers with the HOS regulations, and (iii) ensure that all drivers are dispatched in such a way that scheduled routes may be completed within the maximum driving and on-duty hours, as provided in 49 C.F.R. § 395.5.

7. SALT LAKE SHUTTLE must establish safety management controls and procedures that ensure that every commercial motor vehicle you operate is systematically and properly inspected, maintained and repaired as required by 49 C.F.R. Part 396, and that documentation of inspections, maintenance and repair are obtained and maintained as required.

8. SALT LAKE SHUTTLE must demonstrate that it has an effective commercial motor vehicle maintenance program in place to inspect, maintain, and repairs its fleet and ensure compliance with the FMCSRs. SALT LAKE SHUTTLE must ensure and demonstrate that vehicle maintenance and safety is a company priority and must ensure and demonstrate that inspection records are accurately completed.

9. SALT LAKE SHUTTLE must require its drivers to prepare Driver Vehicle Inspection Reports at the end of each day, implement a procedure so that its drivers can report safety defects and/or deficiencies, and establish and abide by procedures to ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again. SALT LAKE SHUTTLE must train its drivers and ensure all drivers understand the meaning of a roadside out-of-service order and comply with roadside out-of-service orders.

10. SALT LAKE SHUTTLE must establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of its commercial motor vehicles are repaired prior to the vehicle being operated. You must ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used for the transportation of passengers prior to necessary repairs being made and the vehicle passing an appropriate safety inspection.

11. SALT LAKE SHUTTLE must require its drivers to conduct pre- and post-trip commercial vehicle inspections, and must require its drivers to prepare Driver Vehicle Inspection Reports at the end of each day and establish procedures to ensure that reported safety defects and/or deficiencies are repaired immediately and before the vehicle is again operated as required by 49 C.F.R. Part 396.

12. SALT LAKE SHUTTLE must contact FMCSA's Utah Division and arrange for inspection of each of its commercial motor vehicles by an FMCSA inspector or an inspector designated by FMCSA.

13. SALT LAKE SHUTTLE must comply with all Orders issued by FMCSA.

V. RESCISSION OF ORDER

You are subject to this ORDER unless and until the ORDER is rescinded in writing by FMCSA. Unless and until this ORDER is rescinded, and until such time as SALT LAKE SHUTTLE has a valid and active USDOT number and operating authority registration, SALT LAKE SHUTTLE is prohibited from operating any commercial motor vehicle, including the vehicles listed in Appendix A of this ORDER, in interstate and/or intrastate commerce. This ORDER will not be rescinded until the Field Administrator for FMCSA's Western Service Center has determined that you have adequately corrected all conditions identified above.

Before this ORDER will be rescinded, SALT LAKE SHUTTLE must comply with the provisions of this ORDER, eliminate the problems constituting the imminent hazard that its operations and motor vehicles pose, and adequately demonstrate to the Field Administrator's satisfaction the actions taken to eliminate the safety problems. SALT LAKE SHUTTLE cannot avoid this ORDER by continuing operations under the name of another person or company. Any sale, lease or other transfer of equipment and/or direct assignment of contracts or other agreements for service by SALT LAKE SHUTTLE requires the written approval of the Field Administrator for FMCSA's Western Service Center. Any such action taken in anticipation of this ORDER must cease immediately.

Prior to rescission of the ORDER, SALT LAKE SHUTTLE will be required to:

1. Identify the cause of your noncompliance;
2. Develop a detailed plan of action that addresses each area of noncompliance, the steps it intends to take to overcome its noncompliance, and a time table for these steps (Safety Management Plan);
3. Certify in writing your commitment to comply with the FMCSRs; and
4. Execute the Safety Management Plan and provide certification by all company owners and officers.

Any request to rescind this ORDER and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Field Administrator for FMCSA's Western Service Center, with a copy to the Division Administrator, Utah Division, at the following addresses:

Mr. Terry D. Wolf
Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration

12600 W. Colfax Ave., Ste. B-300
Lakewood, CO 80215

Mr. Robert Kelleher
Division Administrator, Utah Division
Federal Motor Carrier Safety Administration
310 East 4500 South, Suite 102
Salt Lake City, UT 84107

As a result of being determined to be an imminent hazard, SALT LAKE SHUTTLE'S federal operating authority is being revoked and its USDOT number deactivated. Rescission of this ORDER does not constitute a reinstatement of SALT LAKE SHUTTLE's federal operating authority registration or its USDOT number. In order for you to resume motor carrier operations transporting passengers in interstate or intrastate commerce, you must apply to reactivate your USDOT number registration, reapply for operating authority registration, and demonstrate that SALT LAKE EXPRESS is fit and willing and able to comply with: 1) the statutory and regulatory registration requirements; 2) applicable safety regulations including the FMCSRs; 3) the commercial motor vehicle safety requirements of employers and employees set forth in 49 U.S.C. § 31135; and 4) the safety fitness requirements set forth in 49 U.S.C. §§ 13906 and 31138.

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this ORDER may subject SALT LAKE SHUTTLE to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. SALT LAKE SHUTTLE may be assessed civil penalties of up to \$25,000 for a violation of this ORDER. (49 U.S.C. § 521(b)(2)(F) and 49 C.F.R. Part 386 App. A. § IV(g)). If violations are determined to be willful, criminal penalties may be

imposed, including a fine of up to \$25,000 or imprisonment for a term not to exceed one year, or both. (49 U.S.C. § 521(b)(6)(A)).

VII. PENALTIES FOR VIOLATIONS

Any motor carrier that violates Federal requirements, including the FMCSRs, and/or permits its employee(s) to violate Federal requirements is subject to civil and/or criminal penalties. Penalties for violations of Federal statutes and regulations are separate and distinct from this ORDER. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

VIII. RIGHT TO REVIEW

You have the right to an administrative review under 5 U.S.C. § 554 and 49 C.F.R. § 386.72(b)(4). An administrative review, if requested, must occur within 10 calendar days of the issuance of this Order. (49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). Unless an administrative review is requested, this Order becomes a Final Agency Order on the 11th calendar day after it is issued. A request for review must be addressed to the Assistant Administrator, United States Department of Transportation, Federal Motor Carrier Safety Administration, with a copy sent to FMCSA's Adjudications Counsel and the Regional Field Administrator, Eastern Service Center at the following addresses:

Assistant Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590


Federal Motor Carrier Safety Administration
Office of the Chief Counsel - Adjudications
1200 New Jersey Avenue S.E., W61-323
Washington, DC 20590

Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Ste. B-300
Lakewood, CO 80215

The request must state the material facts at issue which you believe dispute or contradict the finding that SALT LAKE SHUTTLE's operations constitute an **"imminent hazard"** to the public.

A REQUEST FOR REVIEW DOES NOT IN ANY WAY SUSPEND OR DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY. THIS ORDER IS INDEPENDENT AND SEPARATE FROM ALL OTHER ORDERS OR ACTIONS THAT MAY BE ISSUED BY FMCSA AND DOES NOT AMEND OR MODIFY ANY SUCH ORDERS OR ACTIONS. ANY REQUEST FOR REVIEW OF THIS ORDER WILL APPLY TO THIS ORDER ONLY.

Date: May 2, 2013


for Terry D. Wolf, Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration

APPENDIX A

<u>Bus #</u>	<u>Year</u>	<u>Make</u>	<u>VIN #</u>	<u>License Plate</u>
04	2006	Ford	1FDXE45S66DB40794	A010635
5 (aka 4109)	1990	Prevost	2P9L33401L1001513	A010478
6 (aka 8007)	2008	Ford	1FDXE45S18DA77865	A010477